

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3-13, and 15-21 are pending in this application. Claims 1, 12, 13, 15, and 16 have been amended, and Claim 21 has been added by the present amendment. Support may be found in the disclosure as originally filed, for example, on pages 19-20. Thus, no new matter has been added.

In the outstanding Office Action, Claims 1, 3-13, and 15-20 were rejected under 35 U.S.C. §112, second paragraph, as indefinite; Claims 1, 3, 6, 9, 11-13, 15, 16, and 18 were rejected under 35 U.S.C. §103(a) as unpatentable over Ellis et al. (U.S. Pat. Pub. No. 2004/0117831, herein “Ellis”) in view of Terada (U.S. Pat. Pub. No. 2003/0149665); Claims 4-5 and 7 were rejected under 35 U.S.C. §103(a) as unpatentable over Ellis and Terada, and further in view of Kitadai et al. (U.S. Pat. Pub. No. 2004/0064837, herein “Kitadai”); Claim 8 was rejected under 35 U.S.C. §103(a) as unpatentable over Ellis, Terada, and Kitadai, and in further view of Strietzel (U.S. Pat. No. 6,950,804); Claim 10 was rejected under 35 U.S.C. §103(a) as unpatentable over Ellis and Terada, and in further view of Strietzel and Kitadai; Claims 17 and 20 were rejected under 35 U.S.C. §103(a) as unpatentable over Ellis and Terada, and in further view of Strietzel; and Claim 19 was rejected under 35 U.S.C. §103(a) as unpatentable over Ellis and Terada, and in further view of Edenson (U.S. Pat. No. 7,006,995, herein “Edenson”).

With regard to the rejection of Claims 1, 3-13, and 15-20 under 35 U.S.C. §112, second paragraph, the Office Action notes, on page 3, that with regard to independent Claims 1, 12, 13, 15, and 16, “it is not clear if the user at physical location is the same as at the user terminal.” In response, Applicants have amended the aforementioned claims to ensure further clarity.

The Office Action further notes, on pages 3-4, that “it is also not clear if the content supplier is paid by the user for content distributed to the user terminal or for content screened at the physical location.” Applicants respectfully submit that how monies are distributed is not relevant to the claimed invention. The claimed features, however, recite that payment is provided from the user to the content supplier that screens the content at the physical location.

Furthermore, the outstanding Office Action notes, on page 4, that “it is not clear how a physical location is defined,” and the Office “interprets a physical location to mean any location with a physical character, for example, a user terminal.” Applicants respectfully submit that physical location should be given its plain ordinary meaning, and further submit that, according to the aforementioned claims, the terminal of the user is at a *different location* than the physical location.

Accordingly, based on the amendment to independent Claims 1, 12, 13, 15, and 16, and based on the above discussion, it is respectfully submitted that the 35 U.S.C. §112, second paragraph, rejection has been overcome, and it is respectfully requested that the rejection under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

Addressing now the rejection of Claims 1, 3, 6, 9, 11-13, 15, 16, and 18 under 35 U.S.C. §103(a) as unpatentable over Ellis and Terada, Applicants respectfully traverse this rejection.

Claim 1 recites, in part,

first storage means for storing first content information identifying content that is screened at a physical location and content supplier information identifying a content supplier that screens the content at the physical location;

distributing means for distributing the content to a terminal of a user via a network, the terminal being at a different location than the physical location and allowing the user to view the content;

viewing history storage means for storing viewing history information including an indication that the user has viewed the content on the terminal;

calculating means for calculating a payment to the content supplier that screens the content at the physical location, the payment based on the viewing history information and the first content information; and

payment processing means for providing the payment from the user to the content supplier that screens the content at the physical location.

Independent Claims 12, 13, 15, and 16 include similar features or related steps directed to different classes and/or scopes of invention.

The outstanding Office Action asserts, on page 5, that Ellis describes the claimed first storage means and distributing means. However, the Office Action concedes, on pages 5-6, that Ellis does not teach the claimed viewing history storage means, calculating means, and payment processing means. In order to cure the deficiencies of Ellis, the Office relies on Terada. Applicants respectfully traverse the Office's reliance on the Ellis and Terada references.

Ellis describes an interactive television program guide system that has niche hubs. Each of the niche hubs is an area of the program guide in which features, programming, and information related to a particular programming category where user interest may be found.¹ Terada describes a contents distribution system that collects a contents use fee while enabling a contents user to use a content at a low cost, and enabling a company that sells the product to increase user's appetite for the product without running a commercial in the content.²

The outstanding Office Action asserts, on page 5, that the claimed "content that is screened at a physical location" corresponds to "information such as local theatre productions, movies playing at local theatres" provided by the local hub of Ellis. The Office Action next asserts, on page 5, that the claimed "terminal of a user" corresponds to a

¹ Ellis: paragraph [0009]

² Terada: paragraph [0013]

“television [facility]” of Ellis, and that the claimed “terminal being at a different location than the physical location” corresponds to Ellis’ Figure 1C showing “user television equipments 58 and 60 [being] at different locations.” Applicants respectfully traverse these assertions.

Claim 1 requires that the same content that is screened at a physical location also be distributed to a terminal of the user. Even assuming *arguendo* the Office’s aforementioned assertions, the “local theatre productions and movies playing at local theatres” (asserted to correspond to the claimed “content that is screened at a physical location”) are ***not*** distributed to the terminal of the user, as required by Claim 1.

Accordingly, Applicants respectfully submit that Ellis does not describe, suggest, or render obvious at least the first storage means and distributing means recited in Claim 1.

Additionally, Applicants respectfully submit that Ellis and Terada, whether taken alone or in combination, do not describe, suggest, or render obvious at least calculating means for ***calculating a payment to the content supplier that screens the content at the physical location***, the payment based on the viewing history information and the content information, and payment processing means for ***providing the payment from the user to the content supplier that screens the content at the physical location***, as recited in independent Claim 1 and as similarly recited in independent Claims 12, 13, 15, and 16.

At best, Terada calculates a fee to be charged to the user for viewing a broadcasted program at his or her terminal (e.g., home) only. Terada does not describe or suggest calculating means for ***calculating a payment to the content supplier that screens the content at the physical location***, the payment based on the viewing history information and the first content information, as recited in Claim 1.

Thus, because Terada’s content is not available to be viewed both at a physical location and at a terminal of the user, the terminal being at a different location than the physical location (Ellis also does not show this feature, as discussed above), Terada’s

invention does not (and can not) calculate a payment to the content supplier that screens the content at the physical location. Furthermore, Terada does not teach or suggest payment processing means for *providing the payment from the user to the content supplier that screens the content at the physical location*, as further recited in Claim 1.

Furthermore, it appears that the Office Action, on page 6, has ignored features of the claims by asserting that such features represent “intended use.” Applicants respectfully traverse this assertion and respectfully submit that MPEP §2143.03 requires that all words in a claim must be considered in judging the patentability of the claim against the prior art.

The Office cites various sections of the MPEP (i.e., 2111.04, 2106, and 2173.05(q)) in an attempt to offer support for the conclusion that certain claimed features represent an “intended use.” However, Applicants respectfully submit that the aforementioned sections of the MPEP cited by the Office do not apply to the features recited in the claims of the present application.

It is respectfully submitted that features such as “content that is screened,” “content supplier that screens the content at the physical location,” and “allowing the user to view the content” are not statements that represent “intended use.” The aforementioned features are used to define other features of the claims. For example, “content that is screened at a physical location” defines the “content” of the claim, “content supplier that screens the content at the physical location” defines the “content supplier” of the claim, and “allowing the user to view the content” further defines the “terminal” of the claim.

Accordingly, the above-noted features further define other features of the claims, and as such, do not represent “intended use.” Thus, it is respectfully requested that the above-noted features be given full patentable weight.

Consequently, Applicants respectfully submit that Ellis, Terada, and any other cited reference, whether taken alone or in combination, do not describe or suggest the features of independent Claims 1, 12, 13, 15, and 16, and claims depending respectively therefrom.

Furthermore, it is respectfully submitted that dependent Claim 11 also patentably distinguishes over the applied references, for reasons in addition to this claim's dependency on Claim 1.

The Office Action asserts, on page 9, that the claimed "content includes a video content" corresponds to "video data ... transmitted using one or more video channels" of Ellis, that the claimed "content supplier includes an operator of a theatre or a video content distributor" corresponds to "movies that may be available from the system provider" of Ellis, and that the claimed "physical location includes the theatre" corresponds to "information such as local theatre productions, movies playing at local theatres" provided by the local hub of Ellis.

As noted above, Claim 1 requires that the content is screened at a physical location (as well as distributed to a terminal of the user). Thus, even assuming *arguendo* the above-identified assertions, Ellis still does not teach that the "video data" is the same as the "[movie] playing at local [theatre]" and that the "system provider" operates the theatre at which the movie is playing.

Accordingly, Applicants respectfully submit that Ellis also does not describe, suggest, or render obvious the features of Claim 11.

Thus, it is respectfully requested that the rejection of Claims 1, 3-13, and 15-20 be reconsidered and withdrawn.

New dependent Claim 21 has been added to further define the calculating means of Claim 1. Support for this claim is found throughout the Applicants' disclosure, such as, but not limited to, pages 19-20. Thus, no new matter has been added. Applicants believe new

Claim 21 is neither taught nor suggested in the cited art of record and thus is believed to contain allowable subject matter.

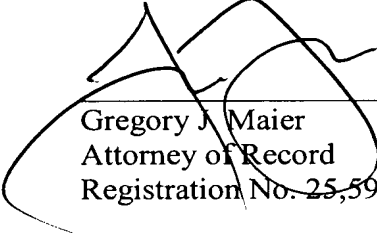
Consequently, in light of the above discussion and in view of the present amendment this application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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